

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.10437 of 2017

Arising Out of PS.Case No. -264 Year- 2016 Thana -BIDUPUR District- VAISHALI(HAJIPUR)

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Md. Sabir Sain @ Sahir Sai S/o-Md. Mehrum Kashim Sain, R/v-Raja
Pakar, Jahingra, P.S.-Raja Pakar, Distt.-Vaishali.

.... Petitioner

Versus

The State of Bihar

.... Opposite Party

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Appearance :

For the Petitioner/s : Mr. Vijay Kumar Sinha, Advocate

For the Opposite Party/s : Mr. Anuj Kumar Srivastava, APP

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CORAM: HONOURABLE MR. JUSTICE VINOD KUMAR SINHA
ORAL ORDER

3 21-03-2017

Heard learned counsel for the petitioner.

This is an application for bail in connection with Bidupur P.S.Case No. 264 of 2016 registered for the offences punishable under Sections 8 and 20B(ii)(c) of Narcotic Drugs and Psychotropic Substance Act and Section 414 of the Indian Penal Code.

It has been submitted on behalf of the petitioner that from perusal of the FIR it appears that informant has not disclosed identity of any person and vehicle was intercepted and two persons were boarded in Scorpio vehicle from which 30 packets were recovered having 67 kg. of ganja. However, there is nothing available on record to show that the aforesaid ganja has been produced before the court and report of Forensic Science



Laboratory immediately after seizure. It has also been argued that charge-sheet in this case has been submitted, which will appear from Annexure-3 without awaiting for report of Forensic Science Laboratory. Further submission is that from the case diary it is evident that Dy.S.P. in his supervision note has made some direction without complying the aforesaid direction and charge-sheet has been submitted in this case. Further submission advanced on behalf of the petitioner is that seizure list (Annexure-2) also does not bear signature of the petitioner, as such, there is no compliance of Section 100 Cr.P.C. Further submission is that in D.K.Basu's case the Supreme Court has laid some guidelines with respect to search and seizure of such materials but the aforesaid guidelines have not been followed as the information with regard to rest of the accused has not been sent nor seized article has been sent to the court concerned and apart from that there is also no compliance of Section 50 of NDPS Act. As such, all these facts show that petitioner has falsely been implicated in this case and arrested without complying with the direction of the Supreme Court in D.K.Basu's case (supra) or without complying the provisions of Section 50 of NDPS Act and, as such, detention of the petitioner is illegal.

Heard learned APP also, who has opposed the prayer



for bail stating that huge quantity of ganja has been recovered from the vehicle in which the petitioner was also boarded.

Heard both sides.

It appears from perusal of the record that petitioner was arrested at the spot and seizure and arrest has been made in public place and there is no violation of Section 43 of the Act. Secondly, even Section 54 of the Act provides presumption for possession of illicit articles and it clearly appears that the vehicle was intercepted in which petitioner was boarded and he was apprehended at the spot and thereafter seizure was made. So there is nothing illegal in the arrest of the petitioner.

So far submission of learned counsel that guidelines issued by Hon'ble Apex Court have not been followed, in my opinion, this is not the stage to look into those aspects of the matter while considering the application for bail of the petitioner.

Considering the discussions made above, I am not inclined to grant bail to the petitioner.

However, from perusal of the order-sheet it appears that case is pending for police paper after cognizance from 8.12.2016. That being the position, learned trial court is directed to take steps for supplying the police paper and expedite the trial also and try to conclude the same preferably within a period of one



year. In this connection, the Superintendent of Police, Vaishali is also directed to ensure that the witnesses are produced in the court on the date fixed so that the trial may be concluded within the prescribed period.

Accordingly, this application is dismissed.

(Vinod Kumar Sinha, J)

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